



**DEPARTMENT OF BUSINESS AND INDUSTRY
OFFICE OF THE DIRECTOR**

**Workshop to Solicit Comments on Proposed Regulations and Agenda
NAC 319.951 to 319.999
Relating to the Affordable Housing Tax Credit Program
Tuesday, October 28, 2014; 10:30am to 12:00pm
Nevada Housing Division; 1535 Old Hot Springs #50, Carson City, NV 89706**

The following were in attendance:

Carson City, NHD location:
Iris Saltus; Praxis Consulting
Eric Novak; Praxis Consulting
Hilary Lopez; Praxis Consulting
Lisa Dayton; Dayton & Associates
Michael Dang; Nevada Housing
Division

Elko, Great Basin College location:
Jim and Holly Gregory; Gregory
Development

Las Vegas, NHD location:
Jon Legarza; Urban Pioneer
Properties
Mike Mullin; Nevada HAND
David Paull; Nevada HAND
George Gekakis; GGI
Sharon Bullock; CDPCN
Mark Licea; Nevada Housing
Division

1. Call to order by Chair; Michael Dang, Chief of Programs

Michael Dang, Chief of Federal and State Programs for the Nevada Housing Division, called the meeting to order.

He explained the purpose of the workshop as follows:

- To solicit comments on the proposed changes to the Nevada Administrative Code 319.951 to 319.999.
- This section of the NAC 319 regulates the Affordable Tax Credit programs for the Housing Division.
- Currently the NAC and QAP have some inconsistencies in language and rules.
- NAC is the controlling document by law.
- NHD has studied other State's QAPs and codes for samples to resolve the inconsistencies between state regulations and QAP.

The workshop is in accordance and pursuant to Nevada Revised Statute 233B, Administrative Procedures Act.

The workshop is on Step 3 of the Administrative Rulemaking Process:

- Step 1 - Draft the Regulations.
- Step 2 - Consider the Impact on Small Businesses.
- Step 3 - Notice and Conduct the Workshop.
- Step 4 - Submit the Proposed Regulations to the Legislative Council. **Early rough draft has already been submitted.*
- Step 5 – Notice of Intent to Adopt.
- Step 6 – Conduct a Public Hearing
- Step 7 – Consider Public Comments
- Step 8 – Adopt the Rules.

2. *Agenda Item #2 – Public Comment before discussion of NAC:*

No Public Comment

3. *Agenda item #3 – Draft NAC Regulations discussion: Introduction, purpose, major changes, consideration of received comments and questions:*

Michael Dang opened the workshop discussion for proposed revisions in the NAC 319 language.

There were extensive comments and questions from the attendees of the workshop.*

**Please see the posted Audio File of the workshop for the entire discussion of this Agenda item along with the posted NAC language redline revision version under 'Attachments'.*

**Please also see attached Letters of comments and questions from our Developers.*

4. *Agenda item #4 –*

No Public Comments.

5. *Agenda item #5 – Meeting Adjourned at 11:45am*

August 29, 2014

Michael Dang
Nevada Housing Division
1535 Old Hot Springs Road, Suite 50
Carson City, NV 89706

Via Email

Subject: Please consider the following comments to the Draft of the Nevada Administrative Code Chapter 319 regarding Low Income Housing Tax Credits sent on August 14, 2014.

1. **Sec .1 NAC 319.972 (5-11), Pg. 4-8 of 41**

These sections provide clarity, stability and transparency on the manner low-income housing tax credits are distributed. The spelling out of the tax credit allocation process in the NAC is very important in the geographic distribution of credits. Additionally the mandate of the legislature is to maximize tax credits to Southern Nevada. The removal of this section may diminish the use of the Clark County set-aside and provide authority to reallocate credits to other parts of the state which is inconsistent with mandate of the legislature. Keeping the the current language of the NAC is more consistent with the legislative mandate.

2. **Sec 3. NAC 319.974 (3), Pg. 9 of 41**

Section 3 deems all completed applications confidential. We feel that this reduces the transparency in the process. All applications, other than the financial statements of a natural person, should be available for public review to instill confidence in the process.

3. **Sec. 5 NAC 319.977, Pg. 12-13 of 41**

Notifying applicants of the proposed reservation of tax credits provides transparency to process. By eliminating these provisions, applicants will have less recourse in the process to appeal decisions made in the application review.

Sincerely,



George Gekakis
President
George Gekakis, Inc.
2655 S. Rainbow Blvd,
Suite 401
Las Vegas, NV 89146
(702) 364-8027



David Paull
Real Estate Development Manager
Nevada H.A.N.D., Inc.
295 E. Warm Springs Rd. Suite 101
Suite 101
Las Vegas, NV 89119
(702) 410-2706

August 27, 2014

Mike:

Thank you for providing the opportunity to comment on the draft Regulations proposed by the Division. Below are my comments based on this initial version of the draft regulations.

1. Page 10 of 41, Sec. 3, NAC 319.974(3): The draft language implies that completed LIHTC applications and supporting documents will now be kept confidential. However, page 6 of the 2014 QAP indicates that "Applicants/Co-Applicants acknowledge that upon the issuance of the reservations all applications and all materials submitted constitute public records within the meaning of the Nevada Public Records Act." Is the Division proposing that applications and supporting materials/correspondence will now be confidential in perpetuity? If in perpetuity, how does that comply with the Nevada Public Records Act? Please clarify.
2. Page 21 of 41, Sec 6: The last sentence in paragraph one currently reads "The report must include, include, without limitation." One of the "includes" should be deleted.
3. Page 21 of 41, Sec 8(8): The proposed regulations indicate that "Each year, the Division will: (a) Review at least 20 percent of the completed projects..." The Division currently monitors all completed projects on an annual basis. Based on this language, will the Division begin monitoring individual properties less frequently? Many states do "risk based" monitoring and do not monitor each property annually.
4. Page 23 of 41, Sec 9, NAC 319.996(3): Please clarify if the application for tax credits will be submitted simultaneously with the tax-exempt bond application or at a later date.
5. Page 23 of 41, Sec 10, NAC 319.999: Please clarify that the developer fee can be adjusted for the basis boost as allowable in the QAP, Section 14.14.4.
6. General comment: Has the Division discussed moving to a two-year Qualified Allocation Plan and, if so, would the current revisions allow for this? Several states adopt a two-year QAP which allows for project sponsors to better respond to housing goals through surety of housing priorities and scoring criteria over a longer planning horizon and which is administratively less burdensome for states since it frees up staff resources for tasks beyond the annual planning process.

Regards,
Hilary

Hilary Lopez, Ph.D.
Senior Associate
Praxis Consulting Group, LLC
888 W. 2nd Street, Suite 300
Reno, NV 89503
(p) 775-786-2003
(f) 775-870-1025
hilary@praxisreno.com

<http://praxisreno.com>



October 27, 2014

Michael Dang
Nevada Housing Division
1535 Old Hot Springs Rd – 50
Carson City, N89706

RE: NAC 319.951 to 319.999

Via E-mail

Please consider the following comments of the Draft of the NAC Chapter 319 of the Administrative Code;

1. Sec 3 NAC 319.974 (3) pg. 9
Section 3 deems all completed application confidential. We feel that this reduces transparency in the process of awarding tax credits. Almost all documents within the State and Federal level are available through the Freedom of Information requests.
2. Section 4 NAC 319.975 pg. 11
It reads that the applicant can request a review with the Administrator after receiving the review scores; however the Division has struck that the Division may change the results after the review. What is the point of said review?
3. Sec 4 NAC 319.977 pg. 12-13
Notifying applicants of the proposed reservation of tax credits provides transparency to the process. By eliminating these provisions, applicants will have less recourse in the process to appeal decisions in the application review.
4. Sec 5 NAC 319.977 (3) pg. 12-13
You have added the language that the Division may change any proposed reservations of tax credits at any time. That seems ambiguous to us. We worked hard throughout the years to get rid of the Division using its discretion by creating a point system.

5. Sec 8 NAC 319.995 (1) pg. 17-18

The code reads that exclusive of any commitments made in the project application and covenants the failure to comply with those provisions may result in a revocation of the allocated tax credits by the IRS, (and the Division has added the wording "or other action by the Division, including without limitation, placing the project sponsor on probation." We think the last sentence is vague.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gregory Development Group", with a stylized flourish extending from the end.

Gregory Development Group